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EXAMINER

ALI, MOHAMMAD M

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3744

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/642,211	Applicant(s) MOGIL, MELVIN S.	
	Examiner MOHAMMAD M. ALI	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 57 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The phrase “tracked fastener” is not supported by the original disclosure and it is not clear what it is meant for.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

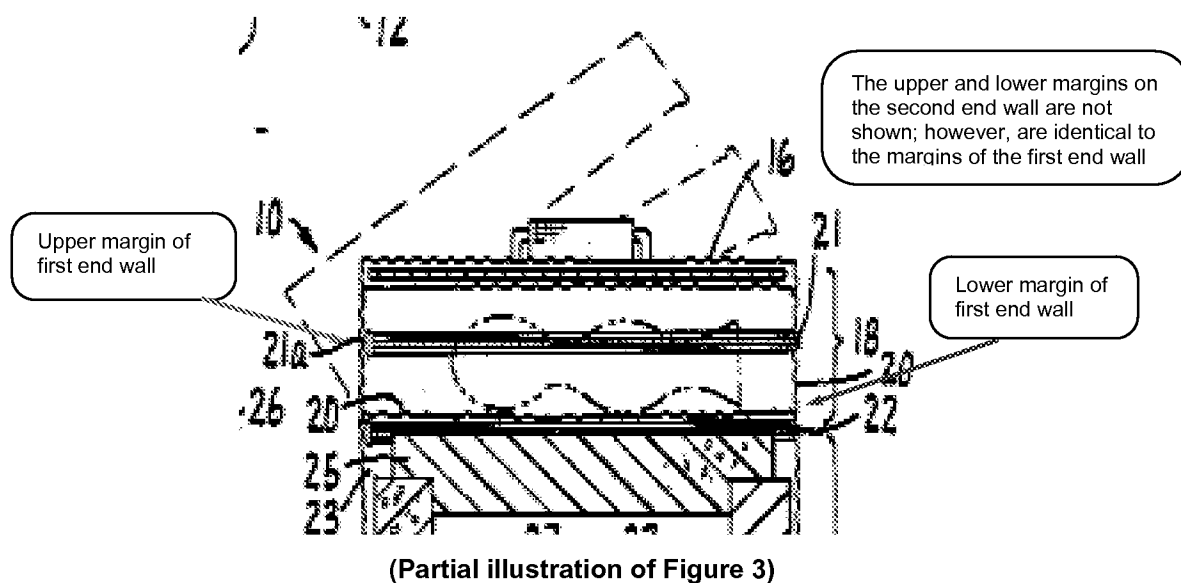
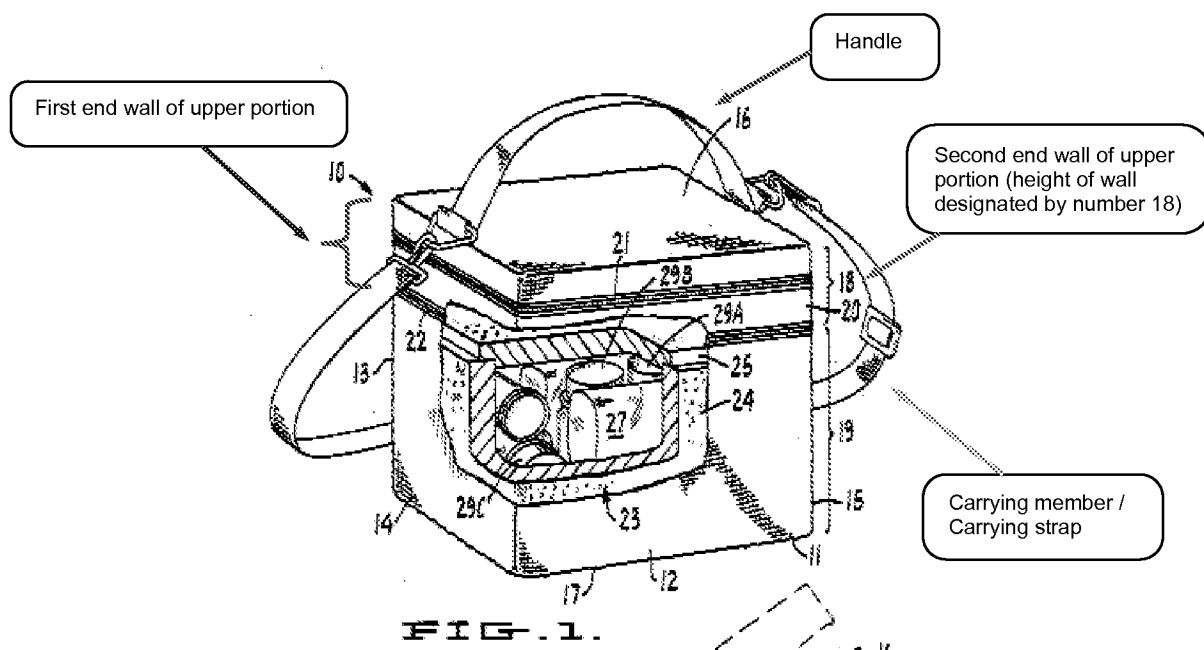
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 36-39, 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hauk (US 4,796,758) in view of Jacober (US 5,090,526) or Anderson (Des. 412,267) or L. E. Agee (3,213,641).

Regarding claim 36, Hank discloses an insulated lower portion (19 – lower compartment; col. 3, lines 35-46) and an upper portion (18 – upper compartment) (see col. 5, lines 33-36; Figures 2, 8); said lower portion having a rectangular base (17 – bottom panel) and rectangular side walls (12, 13, 14, 15 – front, back, side panels) standing upwardly therefrom (as seen in Figures 1, 3); said rectangular base having a length and a width, said length being greater than said width (as seen in Figures 1, 2); said container assembly having a first closure member (22 – heavy duty zipper) operable to control access to said lower portion thereof (see col. 3, lines 35-41); said upper portion having a first end wall, a second end wall (as seen in the illustration of Figure 1), and a wall (16 – top panel) extending therebetween (as seen in Figure 1); said first end wall having a lower margin and an upper margin (as seen in the partial illustration of Figure 3 below), said lower margin having a length corresponding to said width of said base of said lower portion (as seen in Figure 1); said upper margin of said first end wall having a downwardly project profile (as seen in Figures 1, 2); said second end wall having a lower margin and an upper margin (as seen in the partial illustration of Figure 3 below), said lower margin of said second end wall having a length corresponding to said width of said base of said lower portion (as seen in Figure 1); said upper margin of said second end wall having a downwardly projecting profile (as seen in Figures 1, 2); said first and second end walls of said upper portion being spaced apart a distance corresponding to said length of said base of said lower portion of said container assembly (as seen in Figure 1); said wall conforming to said profiles of said first and second end walls (as seen in Figures 1, 2); said wall having front and rear margins (as seen in Figures 1, 2); said container assembly having an externally accessible closure member (21 – heavy duty zipper) controlling access to said upper portion (see col. 3, lines 25-28); said upper portion having a first chamber defined therein (as seen in Figures 1, 3); said lower portion having a second chamber (23 – interior cavity or chamber) defined therein (as seen in Figures 1, 3); said first chamber being fully segregated from said second chamber (as seen in Figures 1, 3); said upper portion being movable relative to said lower portion when said first closure member is in

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said open condition (see col. 3, lines 28-34; Figure 3); and said upper portion being releasably securable in a fixed position relative to said lower portion (see col. 3, lines 25-42; Figures 1, 3).



Hauk does not expressly disclose:

- the container is soft-sided;
- details related to an insulated upper portion;
- details related to a spanning wall and the profile of the upper margins along the container's first and second walls;
- details related to a rectangular panel.

Jacober ('526) teaches that it is well known for soft-walled containers to be used to carry an assortment of items (see col. 1, lines 18-25). Jacober ('526) further discloses a soft-walled carrier (10) whose interior (26 – body cavity) is divided into upper and lower portions, via a rectangular panel (40 – shelf member). Further disclosed is that upon unzipping the container's closure member (33 – zipper), users can gain access to the interior of the container wherein the shelf member can be detached (via snap fasteners [52]) and folded so to allow the container to be compressed for storage purposes or for the insertion of larger items (as seen in Figures 4, 5). In addition, the shelf member is seen to conform to the outline defined by the carrier's side and top panels (14, 16, 18). The carrier is further comprised of intermediate foam layers (38), which are placed within the panels (12, 14, 16, 18, 20) of the container (see col. 5, lines 1-16; Figures 3, 4). The carrier's top panel (18), which has a downwardly concave profile and margins along its sides, spans across the top of the apparatus (as seen in Figures 1, 2). Further disclosed is that the carrier may be carried via handle straps (60) and/or shoulder straps (62) (see col. 5, lines 40-44; Figures 1, 2). Anderson teaches the use of a lid of a insulative container with concave shape (see Fig. 20 for lid portion). L. E. Agee also teaches the use of a concave shape lid of a lunch box (see Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the existing apparatus of Hauk by incorporating soft-sided walls along the exterior of the apparatus, as taught by Jacober ('526) or lid of insulative box of

Anderson or the lid of lunch box of L. E. Agee so to reduce the apparatus' overall weight and cost of manufacturing (see col. 1, lines 19-25 of Jacober), thus making the apparatus more user-friendly and increasing the overall profit from sales, respectively.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the existing apparatus of Hauk by insulating the upper portion of the apparatus, as taught by Jacober ('526), or Anderson or L. E. Agee to more thoroughly insulate the contents enclosed within, thus increasing apparatus' efficiency and making it more user-compatible.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the existing apparatus of Hauk by incorporating a spanning wall and downwardly concave profile along the apparatus' top panel, as taught by Jacober ('526), or Anderson or L. E. Agee for aesthetic reasons, thus making the apparatus more appealing and marketable to consumers.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the existing apparatus of Hauk by incorporating a rectangular panel that is movable within the apparatus, as taught by Jacober ('526) or Anderson or L. E. Agee so that larger food items or a larger quantity of food items can be enclosed within, thus making the apparatus more user-compatible and -friendly.

Regarding claim 37, Hauk discloses a handle by which to carry said container (as seen in the illustration of Figure 1 above), said handle being mounted to said wall (as seen in Figure 1).

Regarding claim 38, Hauk discloses said container has a center of gravity (obvious), and a carrying member (as seen in the illustration of Figure 1 above) is mounted to said container above said center of gravity (obvious).

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Regarding claim 39, Hauk discloses a carrying strap is mounted to said upper portion of said container (as seen in the illustration of Figure 1 above).

Regarding claim 41, Hauk discloses said upper portion of said container is hinged relative to said lower portion of said container (see col. 3, lines 25-42; Figures 1, 3).

Regarding claim 42, Hauk discloses said upper portion is movable relative to said lower portion when said first closure member is moved to an open position to provide access to said second chamber (as seen in Figures 1, 3).

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hauk as modified by Jacober ('526) or Anderson or L. E. Agee and in further view of Young (US 6,015,072).

Hauk as modified by Jacober ('526) or Anderson or L. E. Agee do not disclose details related to a liner.

Young teaches that it is well known for compact luggage pieces and small containers to be used to carry a variety of items (see col. 1, lines 18-41). Young further discloses of a combination collapsible backpack and lined carrying compartment (see Abstract). In addition, it is disclosed that the carrying compartment is comprised of a removable liner (88) (see Abstract; col. 4, lines 63-67; col. 5, lines 1-39; Figure 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the existing apparatus of Hauk as modified by Jacober ('526) or Anderson or L. E. Agee by incorporating a liner within the apparatus, as taught by Young, to contain spills and for cleansing purposes (see col. 1, lines 29-41; col. 4, lines 64-67), thus making the apparatus more user-compatible and -friendly.

Claims 43-46 and 48-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacober (U.S. 5,865,314) in view of Jacober ('526) or Anderson or L. E. Agee.

Regarding claim 43, Jacober ('314) discloses a container comprising an upper portion (72 – room temperature compartment) and a lower portion (46 – cool compartment) hingedly connected thereto (depending on your point of reference, the cool compartment can be seen as the upper portion and the room temperature compartment can be seen as the lower portion; Figures 1-4); said upper portion having a rectangular bottom wall (48 – divider panel) having a pair of short sides and a pair of long sides (as seen in Figure 3); a top wall (24 – bottom panel) having a front margin, and a rear margin (as seen in Figures 1, 3); a pair of first and second opposed end walls connected to said top wall (as seen in Figures 1, 3); said top wall extending between said first and second opposed end walls and defining a widening profile (as seen in Figures 1, 3); each of said end walls having an upper edge conforming to said widening profile of said top wall portion (as seen in Figures 1, 3); each of said end walls standing upwardly of one of said short sides of said bottom wall (as seen in Figures 1, 3); said front margin and said rear margin being located upwardly of respective first and second ones of said long sides of said bottom wall (as seen in Figures 1, 3); said rectangular bottom wall being permanently connected to said rear margin (as seen in Figures 1, 3, 4); said upper portion having a first chamber (72 – room temperature compartment) defined therein; said upper portion having an externally accessible first closure member (44 – double pull zipper), said first closure member being operable to control access to said first chamber (as seen in Figures 1, 3); said lower portion having insulated wall members (see col. 4, lines 7-13) co-operating with said bottom wall of said upper portion to define a second insulated chamber (46 – cool compartment; Figures 1-4); said lower portion having an externally accessible second closure member (38 – double pull zipper), said second closure member being operable to control access to said second chamber (as seen in Figures 1, 2); and

Jacobser ('314) does not expressly disclose:

- details related to a top wall that has a downwardly widening profile;
- details related to the movability of the rectangular bottom wall.

As aforementioned, Jacober ('526) or Anderson or L. E. Agee teaches that it is well known for soft-walled containers to be used to carry an assortment of items (see col. 1, lines 18-25). Jacober ('526) or Anderson or L. E. Agee further discloses a soft-walled carrier, which is comprised of a top panel (18) that has a downwardly widening profile and extends between two sidewalls (as seen in Figures 1, 2, 4). It is also shown that each end wall has an upper edge conforming to the profile of the top panel and stands upwardly of one of the short sides of the apparatus' bottom panel (20) (as seen in Figures 1, 2). Further disclosed are handle straps (60) and/or shoulder straps (62) that may be attached to the carrier (see col. 5, lines 40-43; Figures 1, 2). In addition, as disclosed earlier, the interior (26 – body cavity) of the soft-walled carrier (10) is divided into upper and lower portions, via a shelf member (40). Access to the interior of the container can be gained upon unzipping the container's closure member (33 – zipper), which further allows for the shelf member to be detached (via snap fasteners [52]) and folded upon a users request (as seen in Figures 4, 5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the existing apparatus of Jacober ('314) by incorporating a downwardly widening profile upon the apparatus' top panel, as taught by Jacober ('526) or Anderson or L. E. Agee, for aesthetic reasons, thus making the apparatus more appealing and marketable to consumers.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the existing apparatus of Jacober ('314) by incorporating a rectangular panel that is movable within the apparatus, as taught by Jacober ('526), so that larger food items or a larger quantity of food items can be enclosed within, thus making the apparatus more user-compatible and -friendly.

Regarding claims 44 and 45, Jacober ('314) does not expressly disclose:

- details related to a mesh pocket member;

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- details related to a thermal storage element.

Regarding claim 44, it would have been obvious for one of ordinary skill in the art at the time of the invention was made to modify the existing apparatus of Jacober ('314) as modified by Jacober ('526) by making the plastic strip (54) out of a mesh material so that users can see the contains enclosed within, thus allowing users to more readily locate stored items.

Regarding claim 45, it would have been obvious for one of ordinary skill in the art at the time of the invention was made to modify the existing apparatus of Jacober ('314) as modified by Jacober ('526) by incorporating a thermal storage element within the apparatus' refreezable ice pack storage compartment (58) so that enclosed food items can be maintained at cooler temperatures for longer periods of time, thus extending the quality of life of the food items.

Regarding claim 46, Jacober ('314) discloses a liner (62 – back liner) mounted within on of said chambers (see col. 4, lines 37-43; Figure 2).

Regarding claim 48, Jacober ('314) discloses said first closure member extends along said first margin of said top wall (as seen in Figures 1, 3).

Regarding claim 49, Jacober ('314) discloses said wall members of said lower portion include a bottom wall member, a front wall member, a rear wall member and first and second end wall members, and said wall members co-operate to define an open topped box (46 – cool compartment) (as seen in Figures 1, 2); said front wall member, rear wall member and end wall members each have an upper margin (as seen in Figures 1, 2); said rear margin of said roof of said upper portion is hingedly connected to said upper margin of said rear wall member of said lower portion (as seen in Figures 1-4); and said second closure member is mounted to said upper margin of said front wall member and to said first long side of said bottom wall of said upper portion, said second closure member being operable to secure said upper portion in a closed position relative to said front wall member (as seen in Figures 1-4);

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Regarding claim 50, Jacober ('314) does not expressly disclose a suspension member and details related thereto.

As aforementioned, Jacober ('526) teaches of a contained that is comprised of handle and/or shoulder straps.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the existing apparatus of Jacober ('314) by incorporating handle and/or shoulder straps upon the apparatus' top panel, as taught by Jacober ('526), so that users can easily transport their food items while using their hands for other purposes, thus making the apparatus more user-compatible and -friendly.

Regarding claim 51, Jacober ('314) discloses said container has a center gravity (obvious), and a suspension member (33 – carrying handle) mounted thereto at a level above said center of gravity (as seen in Figure 4).

Regarding claim 52, Jacober ('314) discloses said container has a shoulder strap (33 – carrying handle) mounted thereto (as seen in Figure 1).

Regarding claim 53, Jacober ('314) discloses when said second closure member is in an open position, said upper portion of container is soft-sided insulated hingedly displaceable relative to said lower portion of said soft-sided insulated container (as seen in Figures 1, 3).

Regarding claim 54, Jacober ('314) discloses the recited limitations above in claim 51.

Regarding claim 55, Jacober ('314) discloses the recited limitations above in claims 43 and 51.

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacober ('314) as modified by Jacober ('526), and further in view of Mogil (US 6,092,661).

Jacober ('314) as modified by Jacober ('526) do not expressly disclose details related to a reflective surface.

Mogil teaches of an insulated pack that is comprised of a compartment that is suitable to hold refreshments at either a warmed or chilled temperature (see Abstract). Mogil further discloses that the lid (32) of the apparatus is comprised of a flexible reflective inner layer (52) (see col. 4, lines 12-21; Figure 7).

Response to Arguments

Applicant's arguments filed 01/18/08 have been fully considered but they are not persuasive. The Applicant argued that the disclosure shows and describes several tracked fasteners e. g., zippers 612, 614 but did not specifically mentioned the page or lines of the specifications where the zippers are defined as the tracked fasteners. However, this 112 rejection will be withdrawn as soon as the Applicant amend the specification by mentioning the zippers are also defined or termed as a tracked fastener. The Applicant argued that the issue then is not whether the claims encompass novel subject matter, but rather whether the novel subject matter is inventive. The Examiner disagrees. When the claims are proved novel there is nothing to say against inventive. A claim is novel when it is not anticipated by any prior art and not obvious to prior art or arts in combination. Obviousness does not limit any number or prior arts. Although, the claims are not anticipated by a single prior art they are obvious to the prior art of records as clearly explained (even pin pointed in some specific components/elements by arrow heads). In this regard Applicant's understanding regarding (KSRv. Teleflex, supra) as cited in page 13 of remarks that, "A reason to modify or combine can be found outside prior art. The reason to combine or modify

need not necessarily be the same as that of the inventor whose claims challenged." Is appreciated.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The prior art references used for combination are of the same field of the Applicant's invention and they take into account only knowledge which is within the knowledge of ordinary skill at the time the invention was made and does not include knowledge gleaned only from the Applicant's disclosure as explained in the rejections above and thus such a reconstruction is proper.

The Applicant further argued, "Which is it ? Is the bottom panel of the top portion "permanently attached" ? Or is it "to be detached" ? This is a clear internal contradiction in the rejection of claim 43." The Examiner disagrees. It is nothing but a misinterpretation of, "said rectangular bottom wall being permanently connected to said rear margin (as seen in Fig. 1, 3, 4)." It clearly transpires that the portion of the bottom wall which is closer to rear margin is being permanently connected to the rear margin. It does not preclude the other portion of the bottom wall beyond the rear margin to be detached or reattached. Regarding the shelf member to be detached or attached, the

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shelf member is neither the part of the rear margin nor the part of the bottom wall and it does not preclude the bottom wall to be partially opened. On the other hand claim 43 in line 17 conforms to the rejection that 'said rectangular bottom wall being permanently connected to said rear margin;" It is clear that claim 43 does not include the other margins like front, left and right margins are also permanently connected to said rectangular bottom wall. Therefore, as argued by the Applicant," This is a clear internal contradiction in the rejection of claim 43. And inconsistency between Rejections of claim 36 and 43 is not based on facts. As such the rejections of claim 36 and 43 are not inconsistent in all the foregoing rejections and no further rejection on the new ground is necessary the Applicant request for a specific point to be addressed in a non-final Office Action is not acceptable.

In response to applicant's argument that there is no suggestion or teaches away from the fully segregated chambers of invention of claim 36----, And teaches away from the permanently attached bottom wall of the top portion of the insulated container of invention of claim 43 to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case As explained above that claim 43 does not include that the

other margins like front, left and right margins are also permanently connected with the bottom panel teachings of Jacober (No. 1) is not teaches away.

In reply to Impermissible Hindsight Combination as argued in page 15 and Impermissible Hindsight Analysis as argued in page 19 are more or less same arguments in repetition which reply is furnished above.

The Applicant further argued, "How, for example, could any person skilled in the art arrive at the use of a soft –sided insulated container on the basis of reading Hauk and Agee? ---- How, for example, could a person skilled in the art, having no foreknowledge of the invention ? Neither one teaches a soft-sided insulated container having the upper portion profiled required. ----- How, for example, could a person skilled in the art, having no foreknowledge of the invention look at Hauk and Jacober and arrive at claim 36." Although, all the arguments as above have been clearly addressed in the respective claim rejections, the Examiner likes to mention that the rejections are 103 not 102 and the combined references as a whole teach the claimed invention. It is not right that the Applicant pick up a reference and asks for a teaching which is not available in that particular reference but available in another reference which is ignored by the Applicant. For example soft-sided teaching is available in Jacober (526) and clearly mentioned in 103 rejections above including the needed teachings with Hauk, Agee and Anderson. As per argument, it seems that argument is not for 103 rejections rather towards 102 rejection which is not necessary. Apart from the above although not necessary for requisite teachings wherein the degree of soft-sided is not specifically defined a plastic container or light-weight medaled container of Agee can also be

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considered as a soft-sided container. Therefore, the Examiner requests the Applicant to be specific to the teachings of a reference which is specifically mentioned in the rejections and not to divert the attention by asking an additional teaching which not necessary to conduct the rejection. Therefor, the references to Anderson and Agee are unfounded as argued by the Applicant is not acceptable. Regarding the Applicant respectfully requests that any subsequent office action include marked up copies of Figures from Jacober demonstrating where the lower margins of the of the panels in question are shown. The partial illustration of Fig. 3 as enclosed in all the foregoing rejections clearly identified upper margin of first end wall, lower margin of the first end wall and the upper and lower margins on the second end wall are not shown; however, are identical to the margins of the first end wall. It does not matter which reference teaches the required teachings but fact that the required teachings are available and further teachings have been combined to satisfy the rejections which have been supposed to be accepted by the Applicant in foregoing first non-final and final rejections. Now, without any substantial amendment the Applicant relies upon only new pattern of arguments which unfounded and not justified as mentioned above.

In reply to the further argument that when the closure member identified in the Office Action in Jacober No. 1 is opened, this condition cannot met. Indeed, it cannot met whether that closure member is opened or closed, since at the very least, the end wall at the far end is monolithic. The feature as mentioned has been clearly identified and addressed in the claim rejections. Simply on the basis of the wall at the far end being monolithic it cannot met (the rejection cannot met) is totally unfounded an

unacceptable proper reason is lacking why the monolithic is bar to meet the meet the required condition. Apart from that the teaching reference is not lacking that the combination is proper.

In reply to the argument that Jacober No. 2 does not have a first insulated chamber and a second insulated chamber, the Examiner request the Applicant to please go through the rejection carefully where it is clearly indicated in page 9 that Jacober (314) discloses a container comprising an upper portion (72-room temperature compartment) and a lower portion (46- cool compartment). When Jacober (314) met the requisite feature Jacober No. 2 does not required the same feature but the required teachings which is available and clearly addressed in the claim rejections. Therefore, teaching away th-second insulation chamber is not based on facts.

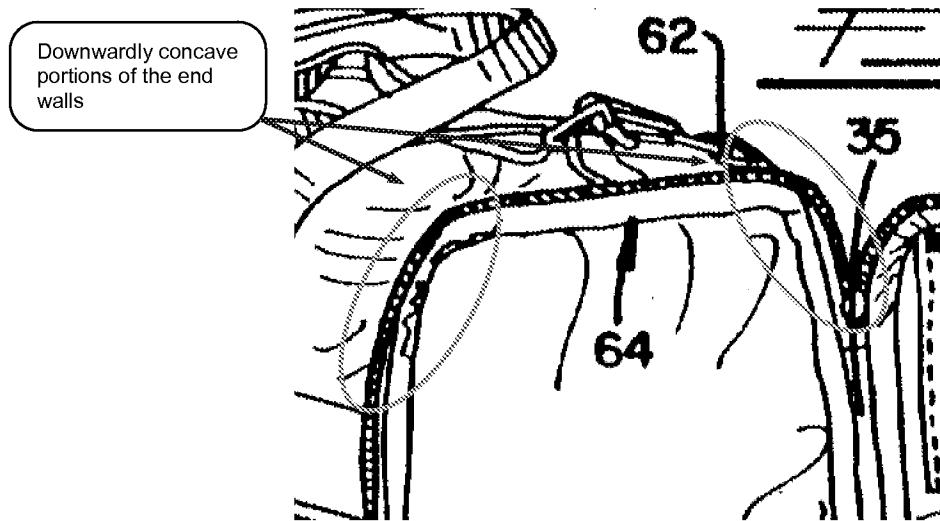
Regarding reply to the argument that “No downwardly widening profile and the Applicant further mentioned that the Office Action appears incorrectly to state that Jacober (No. 2) has a top wall extending between said first and second opposed end walls and defining a widening profile (as seen in Fig. 1 and 3). The Examiner finds the term widening in a broad sense. The term widening means spreading or extending between the opposed end walls and meeting downwardly with the end walls which is met by both by Jacober (314) and Jacober (No. 2). Therefore, the argument that No downwardly widening profile is not correct and acceptable.

Regarding panel margins as separately mentined by the Applicant the claim indicates that the front and rear margins conform to the long sides of the bottom wall. As far as the Applicant can tell, this is not the case in Jacober No.2. The Examiner

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disagrees. While Jacober panel is connected to the rear margins there is no problem to find conforming to the long side of the rear margin.

In reply to the argument of the Applicant to the dependent claims that the proposed combinations upon which the rejections of those claims are based have no more rational support in the references than the rejections of the independent claims. To the same extent that the the Office Action fails to demonstrate prima facie grounds for the rejections of the independent claims, so too is a demonstration of prima facie grounds for rejection of the dependent claims also lacking. The Examiner again disagrees. All the sound footing of grounds of rejections for both independent and dependent claims have been carefully addressed and the all the arguments as argued by the Applicant have been carefully considered and replied as above the arguments submitted by the Applicant are not acceptable.



(Partial illustration of Figure 2)

Apart from the Jacober (526), the Examiner cited couple of more references to cite the same teaching as an old feature in the art and thus shown that there is no patentable merit on the invention. Therefore, the rejections are valid.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMMAD M. ALI whose telephone number is (571)272-4806. The examiner can normally be reached on maxiflex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on 571-272-4808. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mohammad M Ali/
Primary Examiner, Art Unit 3744

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